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9 **BEFORE THE**
BOARD OF REGISTERED NURSING
10 **DEPARTMENT OF CONSUMER AFFAIRS**
11 **STATE OF CALIFORNIA**

12 In the Matter of the Accusation Against:

Case No. 2013-460

13 **JENNIFER DYAN MASON,**
14 **aka JENNIFER DYAN LIEM**
15 **30548 Shoreline Drive**
16 **Menifee, CA 92584**

A C C U S A T I O N

17 **Registered Nurse License No. 530644**

Respondent.

18 Complainant alleges:

19 **PARTIES**

20 1. Louise R. Bailey, M.Ed., RN (Complainant) brings this Accusation solely in her
21 official capacity as the Executive Officer of the Board of Registered Nursing, Department of
22 Consumer Affairs.

23 2. On or about March 10, 1997, the Board of Registered Nursing issued Registered
24 Nurse License Number 530644 to Jennifer Dyan Mason, also known as Jennifer Dyan Liem, also
25 known as Jennifer Dyan Misch, also known as Jennifer Dyan Mischliem (Respondent). The
26 Registered Nurse License was in full force and effect at all times relevant to the charges brought
27 herein and will expire on April 30, 2014, unless renewed.

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1 **JURISDICTION**

2 3. This Accusation is brought before the Board of Registered Nursing (Board),
3 Department of Consumer Affairs, under the authority of the following laws. All section
4 references are to the Business and Professions Code (Code) unless otherwise indicated.

5 4. Section 2750 of the Code provides, in pertinent part, that the Board may discipline
6 any licensee, including a licensee holding a temporary or an inactive license, for any reason
7 provided in Article 3 (commencing with section 2750) of the Nursing Practice Act.

8 5. Section 2764 of the Code provides, in pertinent part, that the expiration of a license
9 shall not deprive the Board of jurisdiction to proceed with a disciplinary proceeding against the
10 licensee or to render a decision imposing discipline on the license. Under section 2811,
11 subdivision (b) of the Code, the Board may renew an expired license at any time within eight
12 years after the expiration.

13 **STATUTORY PROVISIONS**

14 6. Section 482 of the Code states:

15 Each board under the provisions of this code shall develop criteria to evaluate
16 the rehabilitation of a person when:

17 (a) Considering the denial of a license by the board under Section 480; or

18 (b) Considering suspension or revocation of a license under Section 490.

19 Each board shall take into account all competent evidence of rehabilitation
20 furnished by the applicant or licensee.

21 7. Section 490 of the Code provides, in pertinent part, that a board may suspend or
22 revoke a license on the ground that the licensee has been convicted of a crime substantially
23 related to the qualifications, functions, or duties of the business or profession for which the
license was issued.

24 8. Section 493 of the Code states:

25 Notwithstanding any other provision of law, in a proceeding conducted by a
26 board within the department pursuant to law to deny an application for a license or to
27 suspend or revoke a license or otherwise take disciplinary action against a person who
28 holds a license, upon the ground that the applicant or the licensee has been convicted
of a crime substantially related to the qualifications, functions, and duties of the
licensee in question, the record of conviction of the crime shall be conclusive
evidence of the fact that the conviction occurred, but only of that fact, and the board

1 may inquire into the circumstances surrounding the commission of the crime in order
2 to fix the degree of discipline or to determine if the conviction is substantially related
to the qualifications, functions, and duties of the licensee in question.

3 As used in this section, "license" includes "certificate," "permit," "authority,"
4 and "registration."

5 9. Section 2761 of the Code states:

6 The board may take disciplinary action against a certified or licensed nurse or
7 deny an application for a certificate or license for any of the following:

8 (a) Unprofessional conduct, which includes, but is not limited to, the
following:

9

10 (f) Conviction of a felony or of any offense substantially related to the
11 qualifications, functions, and duties of a registered nurse, in which event the record of
the conviction shall be conclusive evidence thereof.

12

13 10. Section 2765 of the Code states:

14 A plea or verdict of guilty or a conviction following a plea of nolo contendere
15 made to a charge substantially related to the qualifications, functions and duties of a
16 registered nurse is deemed to be a conviction within the meaning of this article. The
17 board may order the license or certificate suspended or revoked, or may decline to
18 issue a license or certificate, when the time for appeal has elapsed, or the judgment of
19 conviction has been affirmed on appeal or when an order granting probation is made
suspending the imposition of sentence, irrespective of a subsequent order under the
provisions of Section 1203.4 of the Penal Code allowing such person to withdraw his
or her plea of guilty and to enter a plea of not guilty, or setting aside the verdict of
guilty, or dismissing the accusation, information or indictment.

20 REGULATORY PROVISIONS

21 11. California Code of Regulations, title 16, section 1444, states:

22 A conviction or act shall be considered to be substantially related to the
23 qualifications, functions or duties of a registered nurse if to a substantial degree it
24 evidences the present or potential unfitness of a registered nurse to practice in a
manner consistent with the public health, safety, or welfare. Such convictions or acts
shall include but not be limited to the following:

25 (a) Assaultive or abusive conduct including, but not limited to, those violations
26 listed in subdivision (d) of Penal Code Section 11160.

27 (b) Failure to comply with any mandatory reporting requirements.

28 (c) Theft, dishonesty, fraud, or deceit.

1 (d) Any conviction or act subject to an order of registration pursuant to Section
2 290 of the Penal Code.

3 12. California Code of Regulations, title 16, section 1445 states:

4

5 (b) When considering the suspension or revocation of a license on the grounds
6 that a registered nurse has been convicted of a crime, the board, in evaluating the
7 rehabilitation of such person and his/her eligibility for a license will consider the
8 following criteria:

9 (1) Nature and severity of the act(s) or offense(s).

10 (2) Total criminal record.

11 (3) The time that has elapsed since commission of the act(s) or offense(s).

12 (4) Whether the licensee has complied with any terms of parole, probation,
13 restitution or any other sanctions lawfully imposed against the licensee.

14 (5) If applicable, evidence of expungement proceedings pursuant to Section
15 1203.4 of the Penal Code.

16 (6) Evidence, if any, of rehabilitation submitted by the licensee.

17 COSTS

18 13. Section 125.3 of the Code provides, in pertinent part, that the Board may request the
19 administrative law judge to direct a licentiate found to have committed a violation or violations of
20 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
21 enforcement of the case, with failure of the licentiate to comply subjecting the license to not being
22 renewed or reinstated. If a case settles, recovery of investigation and enforcement costs may be
23 included in a stipulated settlement.

24 CAUSE FOR DISCIPLINE

25 (March 5, 2012 Criminal Conviction for Vandalism &

26 Violating a Domestic Violence Protective Order on April 10, 2011)

27 14. Respondent has subjected her license to disciplinary action under sections 490 and
28 2761, subdivision (f) of the Code in that Respondent was convicted of crimes that are
substantially related to the qualifications, functions, and duties of a registered nurse. The
circumstances are as follows:

1 a. On or about March 5, 2012, in a criminal proceeding entitled *People of the*
2 *State of California v. Jennifer Dyan Liem, aka Jennifer Dyan Misch, aka Jennifer Dyan Mason,*
3 *aka Jennifer Dyan Mischliem*, in Riverside County Superior Court, case number RIM1107755,
4 Respondent was convicted on her plea of guilty of violating Penal Code section 594, subdivision
5 (b)(2)(A), vandalism of property being less than \$400, and Penal Code section 166, subdivision
6 (c)(1), willful violation of a criminal protective order for domestic violence, misdemeanors. The
7 court dismissed an additional count of violating Penal Code section 243, subdivision (e)(1),
8 domestic battery, pursuant to a plea agreement.

9 b. As a result of the convictions, on or about April 3, 2012, Respondent was
10 sentenced to serve 60 days in the custody of the Riverside County Sheriff, with credit for three
11 days, and granted 36 months summary probation. Respondent was ordered to perform 20 hours
12 of community service, complete a 52-week Domestic Violence Program, and pay fees, fines, and
13 restitution. Respondent was further ordered to submit to a Fourth Amendment waiver, not engage
14 in vandalism, not own or have in her possession a firearm or deadly weapon, and to stay away
15 from the victim. A Criminal Protective Order – Domestic Violence was reissued for the victim.

16 c. The facts that led to the conviction are that on or about the evening of April 10,
17 2011, a Riverside County Sheriff Deputy responded to a report of a domestic violence incident in
18 Menifee. The victim stated that he had been in a dating relationship with Respondent, but had
19 recently broken up with her. Shortly before midnight, Respondent had arrived at the victim's
20 home demanding her clothing. He retrieved her clothing at which point she became angry about
21 the break up; she slapped the victim across the face and picked up a nearby rock. Respondent
22 threw the rock at a dual pane window to the right of the front door, then threw the rock at a
23 garage window. The rock went through both panes of the garage window and hit the victim's
24 vehicle causing damage. Respondent left the residence. The sheriff deputy contacted the Murrieta
25 Police Department who went to Respondent's residence and took her into custody. During
26 questioning of Respondent, she provided a completely different explanation of her whereabouts
27 on the evening in question, and denied ever making contact with the victim.

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1 **PRAYER**

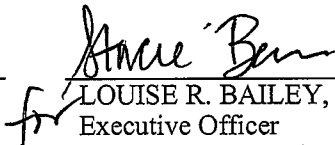
2 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
3 and that following the hearing, the Board of Registered Nursing issue a decision:

4 1. Revoking or suspending Registered Nurse License Number 530644, issued to
5 Jennifer Dyan Mason, also known as Jennifer Dyan Liem, also known as Jennifer Dyan Misch,
6 also known as Jennifer Dyan Mischliem;

7 2. Ordering Jennifer Dyan Mason to pay the Board of Registered Nursing the reasonable
8 costs of the investigation and enforcement of this case, pursuant to Business and Professions
9 Code section 125.3;

10 3. Taking such other and further action as deemed necessary and proper.
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13 DATED: DECEMBER 8, 2012

14 
15 LOUISE R. BAILEY, M.ED., RN
16 Executive Officer
17 Board of Registered Nursing
18 Department of Consumer Affairs
19 State of California
20 Complainant
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